

EXHIBIT G

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF NORTH CAROLINA
3 ASHEVILLE DIVISION

4 _____
5 CARYN DEVINS STRICKLAND,)
6 Plaintiff,)
7)
8 -vs-) Case No. 1:20-cv-00066
9)
10 UNITED STATES, et al.,)
11 Defendants.)
12 _____

13
14 *** CONFIDENTIAL ***
15 SUBJECT TO PROTECTIVE ORDER
16 ECF NO. 183

17
18 DEPOSITION OF THE HONORABLE ROGER L. GREGORY
19 10:02 a.m. to 10:54 a.m.
20 May 16, 2023
21 Richmond, Virginia

22
23
24 Job No. 49825

25 REPORTED BY: Julia A. Bammel, RPR, CSR

1 Deposition of THE HONORABLE ROGER L. GREGORY,
2 taken and transcribed on behalf of the Plaintiff, by and
3 before Julia A. Bammel, RPR, CSR, Notary Public in and for
4 the Commonwealth of Virginia at large, pursuant to the
5 Federal Rules of Civil Procedure and by Notice to Take
6 Deposition, commencing at 10:02 a.m., May 16, 2023, at
7 919 East Main Street, Richmond, Virginia.

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11 APPEARANCES OF COUNSEL:

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25 Also Present: Caryn Strickland

1 T A B L E O F C O N T E N T S

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4 WITNESS: THE HONORABLE ROGER L. GREGORY

5 Examination by Mr. Strickland..... 6

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10 M A R K E D E X H I B I T S

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12 Plaintiff's Exhibit 72

13 E-mail with attached September 10, 2018, Request
for Disqualification

14 US00000466 - US00000467..... 9

15 Plaintiff's Exhibit 73

16 E-mail with attached February 24, 2019, Renewed
Request for Disqualification

17 US00001498 - US00001502..... 10

18 Plaintiff's Exhibit 74

19 E-mail thread

20 US00000852 - US00000855..... 16

21 Plaintiff's Exhibit 75

22 Page 55 of Defendants' privilege log..... 17

23 Plaintiff's Exhibit 76

24 E-mail with attached request for counseling and
report of wrongful conduct

25 US00000500 - US00000507..... 25

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1 A Not that I recall, no.

2 Q Were any of your communications or discussions
3 with James in writing regarding the --

4 A Disqualification? No.

5 Q What was your decision regarding Plaintiff's
6 request for disqualification dated September 10th, 2018?

7 A Denied, at that time. Yes. Denied.

8 Q Are you aware of how the decision regarding
9 Plaintiff's request for disqualification was communicated
10 to the plaintiff? And that is specifically the September
11 2018 disqualification request.

12 A Well, I assume it would have to be James,
13 because that's the one I told.

14 Q Okay.

15 A He was -- he made communications, James.

16 Q All right. I'm going to show you what we're
17 going to mark as Plaintiff's Exhibit 74, and this is
18 US Bates Number 852, and it's an e-mail chain.

19 (Plaintiff's Exhibit 74 marked.)

20 THE WITNESS: Thank you.

21 Okay. All right.

22 BY MR. STRICKLAND:

23 Q Okay. Are you familiar with this e-mail?

24 A No, not really.

25 Q Okay. Do you have any reason to doubt that it

1 BY MR. STRICKLAND:

2 Q All right. Well, I won't belabor the point.

3 If you'll turn to the second page, which is
4 Bates Number 853. If you can just look at the first -- or
5 it's the second paragraph. It has four lines in it.

6 A Uh-huh.

7 Q If you'll read -- review that paragraph.

8 A I read it. "Notwithstanding," the one that
9 started with that? Yeah, I read it.

10 Q Yes, Your Honor.

11 Okay. And then I'm going to read the final two
12 sentences. It says, "Kim and I also spoke to Chief Judge
13 Gregory the other day where he informed me that he intends
14 to deny your request to disqualify Tony Martinez. We are
15 preparing an order to that effect."

16 Do you see that?

17 A I do.

18 Q Does that statement accurately reflect your
19 ruling on the September 2018 disqualification request?

20 A That I'm -- denied it, yes. That I denied it.
21 That's all that it reflects.

22 Q Was James Ishida authorized to communicate this
23 information on your behalf to the plaintiff?

24 A Yes.

25 Q Did you ever decide Plaintiff's renewed request

1 A Oh, yeah. Yeah. That's what it says.

2 Q All right. And then I'll --

3 A It's dated January the 13th. Yeah.

4 Q And going to the top block now in this chain,
5 it's from James Ishida to Heather Beam, January 13, 2019,
6 6:55 p.m., and I'm just going to read from it.

7 It says, "Well said. Kim and I have a meeting
8 tomorrow with Chief Judge Gregory at 2 p.m."

9 A Uh-huh. Yes. That's what it says.

10 Q All right. So to confirm, you never received
11 this e-mail? It was never forwarded to you?

12 A I said I don't recall it, but I do know this,
13 that this was -- is dated two days after -- no. Scratch
14 that. No. I don't recall it. I don't recall it.

15 Q And just to confirm, no one ever communicated
16 the substance of this e-mail to you?

17 MR. KOLSKY: Objection. Asked and answered.

18 THE WITNESS: No, that I know of. Not that I
19 know of.

20 BY MR. STRICKLAND:

21 Q And just to confirm, did you consider Heather
22 Beam's January 13, 2019, e-mail recommending that the
23 Defender be disqualified in making your decision on
24 Plaintiff's disqualification request?

25 A Did I consider it, her opinion?

1 Q Heather Beam's opinion.

2 A No, I did not, because it wasn't her job to
3 make the decision, nor was I counseling her -- or sought
4 counsel from her to help in that decision, so, no, I
5 didn't.

6 Q So you did not -- you did not direct James
7 Ishida to request Heather's opinion?

8 A No, I did not.

9 Q Do you have any reason to know why James would
10 have asked for her opinion?

11 A I don't know. You have to ask him that.

12 Q Okay. I'm going to show you what has
13 previously been marked as Plaintiff's Exhibit 41 from the
14 deposition of Ed Smith that was previously taken in this
15 case. It is US Bates Number 3247, and it is Plaintiff's
16 Supplement to Mediation Request dated February 22nd, 2019.

17 (A copy of Plaintiff's Exhibit 41 was presented
18 to the witness for reference.)

19 THE WITNESS: Yeah. I got it. Yeah. Go
20 ahead.

21 BY MR. STRICKLAND:

22 Q Are you familiar with this e-mail and document?

23 A Yes, I am.

24 Q Does this appear to be an e-mail with
25 Plaintiff's supplement to her request for mediation?

1 Q To the best of your knowledge, have you
2 provided all of the reasons for your disqualification
3 decision?

4 A That's difficult to say. I suppose -- well,
5 no. I would say no, because as being a judge, you have to
6 have context as well as text. So in making the decision to
7 disqualify, I looked at a broader issue; that is, first, we
8 start with what is the purpose of an EDR, and it's called
9 dispute resolution. It's to resolve matters. That's the
10 whole point of it.

11 And so I looked at the whole context of
12 resolving it with the person -- or with the appointing
13 authority that needs to resolve it as best Ms. Strickland
14 and the appointing authority can agree to. So then you
15 have to have the right people there who can effect a
16 settlement.

17 And that is -- for example, all these things
18 were grievance-type things, like pay, job duties, who
19 you'll report to, where you would work, all of those things
20 like that. That's the very essence of the idea of what a
21 dispute is, and Mr. Martinez is the fulcrum there.

22 I think the things that -- the "bad acts"
23 aspect of it was the alleged sexual harassment. Well, he
24 was not that person. The other part is, of course, in
25 terms of how -- questions of how he reacted, what he did,

1 what my job things were, so all of that.

2 So I can't say that universally, sitting down
3 with you right now, all of the things I considered. It's
4 not just a check the box. That's why it was an ongoing
5 thing. I said "at this time" in those things, but nothing
6 came to me in terms of -- you know, there are many people,
7 I'm sure, who have opinions about things and views, but in
8 terms of facts -- and that's what it said, shall, shall put
9 forth the facts in it.

10 And so I looked at the broader reach of it and
11 went beyond her facts in terms of looking in terms of every
12 sector where it would be appropriate to disqualify, take
13 the appointing authority out. And you're trying to -- if
14 you're trying to legitimately resolve it, you need that
15 person, and I saw nothing in there that said that he was
16 resisting that. By her own statement, they were
17 negotiating it.

18 Q And just to clarify, when you say the
19 appointing authority, is another way to describe that the
20 Unit Executive?

21 A Exactly. That's what -- yeah. The government
22 appointing authority, yes.

23 Q And so just to confirm, from what you just
24 described, it sounds like you believe that Mr. Martinez was
25 just a necessary component of the EDR process at that time?

1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

2 I, Julia A. Bammel, RPR, CSR, Notary Public in
3 and for the Commonwealth of Virginia at large, and whose
4 commission expires May 31, 2024, do certify that the
5 aforementioned appeared before me, was sworn by me, and was
6 thereupon examined by counsel, and that the foregoing is a
7 true, correct, and full transcript of the testimony
8 adduced.

9 I further certify that I am neither related to
10 nor associated with any counsel or party to this proceeding
11 nor otherwise interested in the event thereof.

12 I further certify that the deponent's right to
13 review the transcript was reserved.

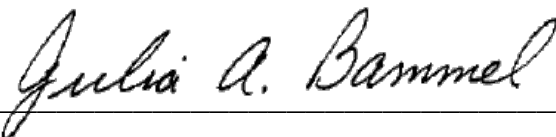
14 Given under my hand and notarial seal at
15 Charlottesville, Virginia, this 18th day of May, 2023.

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Julia A. Bammel, RPR, CSR

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Notary Public Registration No. 7205414

22

Commonwealth of Virginia at Large

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24 Job No. 49825

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